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EXAMINER

SWINEHART, EDWIN L

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/822,159  
Filing Date: April 12, 2004  
Appellant(s): HEVESI ET AL.

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Joseph V. Colaianni  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 2/17/2010 appealing from the Office action mailed 1/22/2009.

**(1) Real Party in Interest**

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The following is a list of claims that are rejected and pending in the application: 1,3-10,18 and 20-22. Applicant includes claim 2 in the claim appendix, however such was canceled in the amendment of 12/16/2008.

**(4) Status of Amendments After Final**

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

**(5) Summary of Claimed Subject Matter**

The examiner has no comment on the summary of claimed subject matter contained in the brief.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

### **WITHDRAWN REJECTIONS**

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the examiner. The 112 first paragraph New Matter rejection against claims 18 and 20-22.

### **(7) Claims Appendix**

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

### **(8) Evidence Relied Upon**

6,796,862	Abbenhouse et al.	9-2004
2,205,769	Sweetland	6-1940
Des. 320,375	Bruce	10-1991

### **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 18 and 20-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Abbenhouse et al. .

Abbenhouse et al. discloses a fiber reinforced composite paddle blade having a "skeleton" **75** with two ribs extending towards the outer periphery, and ending substantially at or near to the periphery as claimed Note Fig. 1a of Abbenhouse et al. The skeleton, being of a single piece of foam, is covered top and bottom by a composite

Art Unit: 3617

skin, and attached to shaft as claimed. The rib may be said to include the form **75**, therefore, rib and blade are made of different materials as claimed. Abbenhouse et al. fails to show three or more ribs as now claimed.

Abbenhouse et al. sets forth no criticality for having only two ribs, and therefore it would have been well within the level of skill of the ordinary routineer working in the art at the time of the invention, providing results exactly as would have been expected to provide as many ribs as desired, for example three or four. It should also be noted that the present application sets forth no criticality for three ribs.

Re “injection molding” and “molded”, such are method of making, which is accorded no weight in these apparatus claims.

Claims 1,3-6,9,10,18 and 20-22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Abbenhouse et al. in view of Sweetland.

Abbenhouse et al. is discussed above, and discloses an inner “skeleton” **75** covered top and bottom by a composite skin, and attached to shaft as claimed. Abbenhouse et al. fails to show a grip as is old and well known in the art.

Sweetland shows the field of the invention, including a reduced diameter cylindrical portion **62**, which longitudinally locks a grip therein. Sweetland teaches provision of holes **30** within the handle of the figure 3 embodiment for cooperating with formed “ridges” to secure the handle.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Abbenhouse et al. a grip as taught by Sweetland.

Such a combination would have been desirable at the time of the invention so as to provide a sure grip for the user.

Re “injection molded”, such is method of making, carrying no weight in these apparatus claims. In any event however, Abbenhouse et al. does show the injection molding of the outer surface around the single piece foam skeleton.

The exact plastic used in the construction is considered to have been an obvious design consideration, providing exactly the results as would be expected. The routineer working in the art would have knowledge of available plastics and their properties, and to choose and substitute known materials to achieve predictable results would not be patentable. Furthermore, Abbenhouse et al. on Col. 5, beginning at line 4 discloses the core being molded foam (plastic) and the outer skin being a molded composite (epoxy with fibers).

Re “wing shaped”, such fails to define any specific structure and/or arrangement so as to define over Abbenhouse et al.

Re “at least one rib that extends distally from the longitudinal centerline...”, such fails to define over Abbenhouse, and the illustrated ribs are distant from the centerline, and extend towards the outer periphery.

Claims 7 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Abbenhouse et al. in view of Sweetland as applied to claim 1 above, and further in view of Bruce.

Bruce teaches a bent shaft, and clearly suggests angles of the range claimed.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide bent shaft portions to Abbenhouse as taught by Bruce.

Such a combination would have been desirable at the time the invention was made so as to provide a more ergonomic shape, as such bent portions are well known for providing a stress reduction to the wrists of the user.

#### **(10) Response to Argument**

Appellant argues that Abbenhouse et al. fails to show three ribs that extend distally from the longitudinal centerline of a single-piece skeleton towards the outer periphery of the paddle blade.

In response, the examiner has taken the position that lacking any criticality, the number of ribs provided would have been well within the level of skill of the ordinary routineer working in the art at the time of the invention, providing results exactly as would have been expected.

Appellant further argues that Abbenhouse et al. fails to show a single piece skeleton and an injection molded outer surface that encloses and directly contacts the single piece skeleton.

In response, "skeleton" as claimed fails to define over the single piece plastic foam core of Abbenhouse et al. The outer composite skin of Abbenhouse et al. directly contacts this inner skeleton as claimed.

Appellant further argues that Abbenhouse et al. fails to show his branches or ribs ending substantially at the outer periphery of the blade, and specifically teaches that such do not extend all the way to the periphery.

In response, the claim language “ending substantially at said outer periphery” does require that the ribs extend all the way to the periphery. The term “substantially” broadens the limitation, such that all is required is such ribs extend to a point/position that is very close, which is clearly shown in figure 1a of Abbenhouse et al. The phrase “injection molded” is a method of making which carries no weight in applicant’s apparatus claims.

Appellant further argues that internal foam of Abbenhouse et al. does not carry any load and is therefore not load bearing, and therefore cannot “reinforce the paddle blade” as claimed.

In response, the internal skeleton of Abbenhouse et al. will inherently carry some load. The blade of Abbenhouse et al. will inherently be stronger with the foam core in place, as opposed to its absence. And in this regard, it can be said that the foam core will reinforce the blade as claimed.

Appellant argues re the recessed portion and grip that Appellant claims a unique method of grip interlock that utilizes a single mating surface that incorporates a lock for all axis of available movement, and by using a single multi-faceted surface to interlock the gripping member, the present invention resists movement in all planes without the use of pins or ridges. By eliminating the use of pins and/or edges in the underlying structure, the present invention is able to produce a final component that is both stronger and lighter than the design taught in Sweetland. This increased strength comes from the ability to design a mating surface that is free of hard edges.

Art Unit: 3617

In response, such arguments are not commensurate with the claimed invention. Appellant claims a grip for interlocking in a recessed portion. No more in this regard has been claimed, and Sweetland clearly shows such an arrangement.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Ed Swinehart/

Conferees:

Samuel Morano /SJM/

Heather Shackelford /hcs/